



General Assembly

February Session, 2014

## ***Amendment***

LCO No. 5378

**\*SB0041205378SD0\***

Offered by:

SEN. DOYLE, 9<sup>th</sup> Dist.

REP. ARESIMOWICZ, 30<sup>th</sup> Dist.

REP. BARAM, 15<sup>th</sup> Dist.

REP. ZONI, 81<sup>st</sup> Dist.

To: Subst. Senate Bill No. 412

File No. 330

Cal. No. 229

### ***"AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN OCCUPATIONAL LICENSING STATUTES."***

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Subsection (c) of section 20-332 of the 2014 supplement to  
4 the general statutes is repealed and the following is substituted in lieu  
5 thereof (*Effective October 1, 2014*):

6 (c) If, after a hearing in accordance with the regulations adopted by  
7 the Commissioner of Consumer Protection, it appears that the  
8 provisions of this chapter or the regulations adopted under this  
9 chapter have been violated, in addition to the penalties in this chapter,  
10 the appropriate examining board [, or] and the commissioner, [or the  
11 commissioner's authorized agent,] either jointly or separately, shall  
12 report such violation to the office of the state's attorney for the judicial

13 district in which such violation occurred.

14 Sec. 2. Section 20-341 of the general statutes is repealed and the  
15 following is substituted in lieu thereof (*Effective October 1, 2014*):

16 (a) Any person who wilfully engages in or practices the work or  
17 occupation for which a license is required by this chapter or chapter  
18 399b without having first obtained an apprentice permit or a certificate  
19 and license for such work, as applicable, or who wilfully employs or  
20 supplies for employment a person who does not have a certificate and  
21 license for such work, or who wilfully and falsely pretends to qualify  
22 to engage in or practice such work or occupation, including, but not  
23 limited to, offering to perform such work in any print, electronic,  
24 television or radio advertising or listing when such person does not  
25 hold a license for such work as required by this chapter, or who  
26 wilfully engages in or practices any of the work or occupations for  
27 which a license is required by this chapter after the expiration of such  
28 person's license, shall be guilty of a class B misdemeanor, [provided]  
29 except that no criminal charges shall be instituted against such person  
30 pursuant to this subsection unless the work activity in question is  
31 reviewed by the Commissioner of Consumer Protection, or the  
32 commissioner's authorized agent, and the commissioner or such agent  
33 specifically determines, in writing, that such work activity requires a  
34 license and is not the subject of a bona fide dispute between persons  
35 engaged in any trade or craft, whether licensed or unlicensed.  
36 Notwithstanding the provisions of subsection (d) or (e) of section 53a-  
37 29 and subsection (d) of section 54-56e, if the court determines that  
38 such person cannot fully repay any victims of such person within the  
39 period of probation established in subsection (d) or (e) of section 53a-  
40 29 or subsection (d) of section 54-56e, the court may impose probation  
41 for a period of not more than five years. The penalty provided in this  
42 subsection shall be in addition to any other penalties and remedies  
43 available under this chapter or chapter 416.

44 (b) The appropriate examining board or the Commissioner of  
45 Consumer Protection may, after notice and hearing, impose a civil

46 penalty for each violation on any person who (1) engages in or  
47 practices the work or occupation for which a license or apprentice  
48 registration certificate is required by this chapter, chapter 394, chapter  
49 399b or chapter 482 without having first obtained such a license or  
50 certificate, or [who] (2) wilfully employs or supplies for employment a  
51 person who does not have such a license or certificate or who wilfully  
52 and falsely pretends to qualify to engage in or practice such work or  
53 occupation, or [who] (3) engages in or practices any of the work or  
54 occupations for which a license or certificate is required by this  
55 chapter, chapter 394, chapter 399b or chapter 482 after the expiration of  
56 the license or certificate, or [who] (4) violates any of the provisions of  
57 this chapter, chapter 394, chapter 399b or chapter 482 or the regulations  
58 adopted pursuant thereto. Such penalty shall be in an amount not  
59 more than one thousand dollars for a first violation of this subsection,  
60 not more than one thousand five hundred dollars for a second  
61 violation of this subsection and not more than three thousand dollars  
62 for each violation of this subsection occurring less than three years  
63 after a second or subsequent violation of this subsection, except that  
64 any individual employed as an apprentice but improperly registered  
65 shall not be penalized for a first offense.

66 (c) If an examining board or the Commissioner of Consumer  
67 Protection imposes a civil penalty under the provisions of subsection  
68 (b) of this section as a result of a violation initially reported by, a  
69 municipal building official in accordance with subsection (c) of section  
70 29-261, the commissioner shall, not less than sixty days after collecting  
71 such civil penalty, remit one-half of the amount collected to such  
72 municipality.

73 (d) A violation of any of the provisions of this chapter shall be  
74 deemed an unfair or deceptive trade practice under subsection (a) of  
75 section 42-110b.

76 (e) This section shall not apply to any person who (1) holds a license  
77 issued under this chapter, chapter 394, chapter 399b or chapter 482 and  
78 performs work that is incidentally, directly and immediately

79 appropriate to the performance of such person's trade where such  
80 work commences at an outlet, receptacle or connection previously  
81 installed by a person holding the proper license, or (2) engages in work  
82 that does not require a license under this chapter, chapter 394, chapter  
83 399b or chapter 482.

84 Sec. 3. Section 21a-8 of the general statutes is repealed and the  
85 following is substituted in lieu thereof (*Effective October 1, 2014*):

86 (a) The Department of Consumer Protection shall have the  
87 following powers and duties with regard to each board or commission  
88 transferred to the Department of Consumer Protection under section  
89 21a-6:

90 (1) The department shall control the allocation, disbursement and  
91 budgeting of funds appropriated to the department for the operation  
92 of each board or commission transferred to said department.

93 (2) The department shall employ and assign such personnel as the  
94 commissioner deems necessary for the performance of each board's or  
95 commission's functions.

96 (3) The department shall perform all management functions,  
97 including purchasing, bookkeeping, accounting, payroll, secretarial,  
98 clerical, record-keeping and routine housekeeping functions.

99 (4) The department shall conduct any necessary review, inspection  
100 or investigation regarding qualifications of applicants for licenses or  
101 certificates, possible violations of statutes or regulations, accreditation  
102 of schools, disciplinary matters and the establishment of regulatory  
103 policy, and make recommendations to the appropriate board or  
104 commission. In connection with any such investigation, the  
105 Commissioner of Consumer Protection, or the commissioner's  
106 authorized agent, may administer oaths, issue subpoenas, compel  
107 testimony and order the production of books, records and documents.  
108 If any person refuses to appear, to testify or to produce any book,  
109 record or document when so ordered, a judge of the Superior Court

110 may make such order as may be appropriate to aid in the enforcement  
111 of this section.

112 (5) The department shall administer any examinations necessary to  
113 ascertain the qualifications of applicants for licenses or certificates and  
114 shall issue licenses or certificates to qualified applicants. The  
115 department shall maintain rosters of licensees or registrants and  
116 update such rosters annually, and may provide copies of such rosters  
117 to the public for an appropriate fee.

118 (6) The department shall conduct any necessary investigation and  
119 follow-up in connection with complaints regarding persons subject to  
120 regulation or licensing by the board or commission.

121 (7) The department shall perform any other function necessary to  
122 the effective operation of the board or commission and not specifically  
123 vested by statute in the board or commission.

124 (8) The department shall receive complaints concerning the work  
125 and practices of persons licensed, registered or certified by such boards  
126 or commissions and shall receive complaints concerning unauthorized  
127 work and practice by persons not licensed, registered or certified by  
128 such boards or commissions. The department shall distribute monthly  
129 a list of all complaints received within the previous month to the  
130 chairperson of the appropriate board or commission. The department  
131 shall screen all complaints and dismiss any in which the allegation, if  
132 substantiated, would not constitute a violation of any statute or  
133 regulation. The department shall distribute notice of all such  
134 dismissals monthly to the chairperson of the appropriate board or  
135 commission. The department shall investigate any complaint in which  
136 the allegation, if substantiated, would constitute a violation of a statute  
137 or regulation under its jurisdiction. In conducting the investigation, the  
138 commissioner may seek the assistance of a member of the appropriate  
139 board, an employee of any state agency with expertise in the area, or if  
140 no such member or employee is available, a person from outside state  
141 service licensed to perform the work involved in the complaint. Board

142 or commission members involved in an investigation shall not  
143 participate in disciplinary proceedings resulting from such  
144 investigation. The Commissioner of Consumer Protection may dismiss  
145 a complaint following an investigation if the commissioner determines  
146 that such complaint lacks probable cause. Notice of such dismissal  
147 shall be given only after approval by [the chairperson of] the  
148 appropriate board or commission. The commissioner may authorize a  
149 settlement if the settlement is approved by the complainant, the  
150 practitioner, and the board or commission. The commissioner may  
151 bring a complaint before the appropriate board or commission for a  
152 formal hearing if the commissioner determines that there is probable  
153 cause to believe that the offense alleged in the complaint has been  
154 committed and that the practitioner named in the complaint was  
155 responsible. The commissioner, or the commissioner's authorized  
156 agent, shall have the power to issue subpoenas to require the  
157 attendance of witnesses or the production of records, correspondence,  
158 documents or other evidence in connection with any hearing of a  
159 board or commission. All dispositions and final decisions by the  
160 Department of Consumer Protection after an investigation into a  
161 complaint has begun shall be forwarded to the chairperson of the  
162 appropriate board or commission on a monthly basis.

163 (9) The department may contract with a third party, if the  
164 commissioner deems it necessary and if the appropriate board or  
165 commission consents, to administer licensing examinations and  
166 perform all attendant administrative functions in connection with such  
167 examination and to monitor continuing professional education  
168 requirements, and may require the payment of a fee to such third  
169 party.

170 (b) Not later than January 15, 2015, and annually thereafter, the  
171 commissioner, in accordance with section 11-4a, shall report the  
172 following to the joint standing committee of the General Assembly  
173 having cognizance of matters relating to consumer protection and  
174 occupational licensing: (1) The total number of complaints received by

175 the department in the previous calendar year concerning the work and  
176 practice of persons licensed, registered or certified by the boards or  
177 commissions specified in subdivisions (1) and (3) of section 21a-6, (2)  
178 the nature of each complaint, (3) the department's resolution of each  
179 complaint, including, if applicable, whether the complaint (A) was  
180 dismissed because the allegation, if substantiated, would not constitute  
181 a violation of any statute or regulation, (B) was investigated, (C) was  
182 dismissed, following an investigation, for lack of probable cause, (D)  
183 was resolved by a settlement, and whether a penalty was imposed  
184 pursuant to such settlement, or (E) was brought for formal hearing,  
185 and whether a violation was found and a penalty imposed.

186     [(b)] (c) The Commissioner of Consumer Protection shall have the  
187 following powers and duties with regard to each board or commission  
188 transferred to the Department of Consumer Protection under section  
189 21a-6:

190     (1) The commissioner may, in the commissioner's discretion, issue  
191 an appropriate order to any person found to be violating any statute or  
192 regulation within the jurisdiction of such board or commission  
193 providing for the immediate discontinuance of the violation or  
194 requiring the violator to make restitution for any damage caused by  
195 the violation, or both. The commissioner may, through the Attorney  
196 General, petition the superior court for the judicial district in which the  
197 violation occurred, or in which the person committing the violation  
198 resides or transacts business, for the enforcement of any order issued  
199 by the commissioner under this subdivision and for appropriate  
200 temporary relief or a restraining order. The commissioner shall certify  
201 and file in the court a transcript of the entire record of the hearing or  
202 hearings, including all testimony upon which such order was made  
203 and the findings and orders made by the commissioner. The court may  
204 grant such relief by injunction or otherwise, including temporary  
205 relief, as the court deems equitable and may make and enter a decree  
206 enforcing, modifying and enforcing as so modified, or setting aside, in  
207 whole or in part, any order of the commissioner issued under this

208 subdivision.

209 (2) The commissioner may conduct hearings on any matter within  
210 the statutory jurisdiction of such board or commission. Such hearings  
211 shall be conducted in accordance with chapter 54 and the regulations  
212 established pursuant to subsection (a) of section 21a-9. In connection  
213 with any such hearing, the commissioner may administer oaths, issue  
214 subpoenas, compel testimony and order the production of books,  
215 records and documents. If any person refuses to appear, testify or  
216 produce any book, record or document when so ordered, a judge of  
217 the Superior Court may make such order as may be appropriate to aid  
218 in the enforcement of this subdivision.

219 (3) In addition to any other action permitted under the general  
220 statutes, the commissioner may, upon a finding of any cause specified  
221 in subsection (c) of section 21a-9: (A) Revoke or suspend a license,  
222 registration or certificate; (B) issue a letter of reprimand to a  
223 practitioner and send a copy of such letter to a complainant or to a  
224 state or local official; (C) place a practitioner on probationary status  
225 and require the practitioner to (i) report regularly to the commissioner  
226 on the matter which is the basis for probation, (ii) limit the  
227 practitioner's practice to areas prescribed by the commissioner, or (iii)  
228 continue or renew the practitioner's education until the practitioner  
229 has attained a satisfactory level of competence in any area which is the  
230 basis for probation. The commissioner may discontinue, suspend or  
231 rescind any action taken under this subdivision."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	20-332(c)
Sec. 2	October 1, 2014	20-341
Sec. 3	October 1, 2014	21a-8